

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RANDY D. MITCHELL,

Plaintiff,

v.

BOBBY WHITWORTH, et al.,

Defendant.

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CIVIL ACTION NO.
1:97-CV-0914-JOF

OPINION AND ORDER

This matter is before the court on Plaintiff Randy Mitchell's Motion to Vacate the court's March 23, 2008 Order [42].

Plaintiff was convicted of murder in 1976 and has been serving a life sentence in prison since that time. In March 2000, this court address Plaintiff's allegations of *ex post facto* parole violations and directed the Parole Board to conduct annual reconsideration of parole. Since that time Plaintiff has filed, and the court has denied, four motions for contempt against the Parole Board. In the court's most recent order of March 24, 2008, the court found that the Parole Board had made an administrative error with respect to the 2008 reconsideration of Plaintiff's parole but that the Parole Board had used "reasonable diligence and efforts to comply with the court's [March 2000] order" and the Board's actions did not warrant sanctions for contempt. Plaintiff now moves to vacate that order. Plaintiff offers

no new arguments or evidence; Plaintiff simply asserts that the court ignored his argument that “Defendants arbitrarily denied parole only after Plaintiff filed motion for contempt.” (Motion [42], at 1).

Plaintiff’s motion is a Rule 60(b)(6) Motion for Relief from Judgment. Rule 60(b)(6) allows the court to relieve a party from a final judgment “for any other reason that justifies relief.” Relief under this clause is an extraordinary remedy which may only be invoked upon a showing of exceptional circumstances. *Griffin v. Swim-Tech Corp.*, 722 F.2d 677, 680 (11th Cir. 1984). “The party seeking relief has the burden of showing that absent such relief, an ‘extreme’ and ‘unexpected’ hardship will result.” *Id.* Plaintiff has not made such a showing. Plaintiff’s motion [42] is DENIED.

IT IS SO ORDERED this 30th day of October 2008.

s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE